

3. How to gather information

The main task of an NPM is to **gather objective information** on many diverse aspects of the overall functioning of a detention facility, and to analyse these findings with a view to formulating relevant recommendations for improvement of the system for the benefit of those who live and work within these facilities.

NPMs should be aware that a **plenitude of sources** for information-gathering exists, each of which should be tapped in accordance with their own, specific methodology. Frequently, it will be necessary to cross-check information gained through one source, *e.g. an interview, by examining also other available sources, e.g. Closed-Circuit Television (CCTV) footage or files.*

In the following, the main sources of information for NPMs are presented, with a short description of their informative value and guidance on how to make maximum use of them.

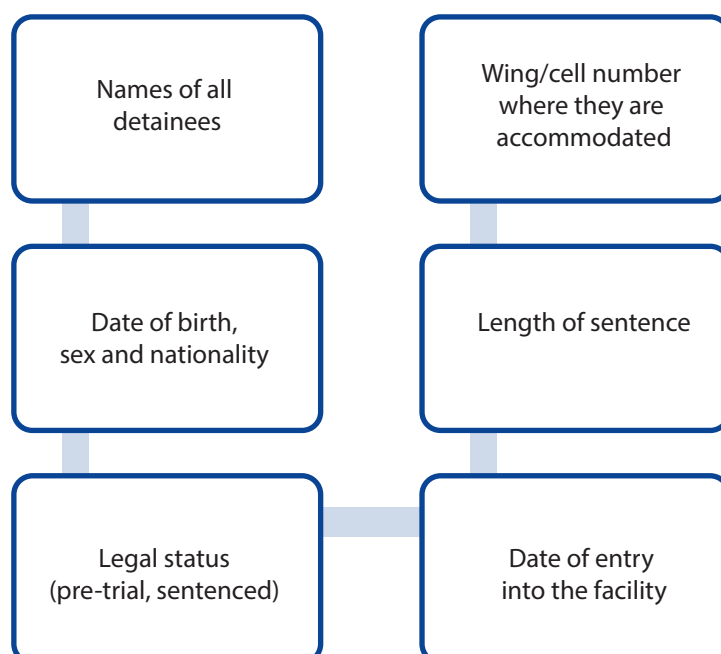
3.1. Prison database and lists of detainees

In line with the precepts of [OPCAT](#), NPMs should have full access to information pertaining to detainees, including their number and any information necessary to assess their treatment. In European countries, prison systems typically retain databases with at least basic information on all persons detained (names, dates of birth, status, entry date, length of sentence, etc.). Preferably, NPMs should have autonomous access to these databases with their own passwords and at least some members of the NPM should have received basic training on what information is available within the system, how to navigate and retrieve it, and how to triage the data to obtain meaningful sets for analyses.

In case all detention facilities of the country uniformly use the database for storing information on certain circumstances, such as the use of disciplinary punishments or storage of incident reports, the NPM could compare and analyse this data without even visiting the detention facilities. In a thematic report on these issues, the NPM could then present its findings and recommendations.

Having said that, analysing information stored within the database can never replace actual visits to detention facilities, and the true value of access to the database lies in facilitating preparations of visits. Shortly before the visiting delegation sets off to a detention facility, all information on that specific facility stored in the database should be extracted and analysed, particularly with a view to identifying interview partners among the detainees ([see below, Chapter 3.5](#)).

Lists of detainees should as a minimum contain:



As an absolute minimum, the visiting delegation should, from the outset of the visit, have a nominative list of all detainees at their disposal, with their date of birth, sex/gender (if the facility holds both men and women, and/or transgender, transsexual or intersexual detainees), nationality, legal status (remand or convicted), date of entry into the facility, length of sentence, and cell number where they are accommodated. Other useful information that could be held in this list might relate to the security or regime status of the individual detainees, any additional classification, e.g. “first time offender”, “vulnerable”, “substance abuse”, or “dangerous” that might be used by the penitentiary system; the actual arrest date and place from which the individual detainee has been transferred, e.g. *from another detention facility or the police*; and any other information pertaining to disciplinary punishments, use of force, etc. in relation to the detainees present in a given detention facility at the time of the visit of the NPM.

It is debatable whether NPMs need to know from the outset which crimes the respective detainees are accused or convicted of, and there are indeed arguments for and against including this information into the list of detainees. On the one hand it is true that (alleged) perpetrators of certain crimes, such as sexual offences against minors, run a higher risk of being abused in detention, both by staff and fellow detainees. NPMs should be particularly attentive to detainees accused or convicted of these crimes. On the other hand, concentrating too much on the crime a specific detainee is accused or convicted of may create prejudices within the monitors’ minds, and during an interview with these persons the focus on the individual might be blurred by prior knowledge of their criminal history.

In this connection, but also relating more generally to access to information kept on detainees within their individual files or medical files, a comment is necessary on **data protection**. Data protection of natural persons, including persons in detention, is a fundamental right. In many cases, NPMs will have the statutory right to access all information pertaining to detainees, but time and again prison authorities or prison health care staff evoke data protection concerns in order to refuse access to this information. Sometimes, prison monitors are told that they are required to obtain individual written consent by the detainees concerned in order to access their data, which greatly impacts on the work of the monitoring body and does not allow for random or overall checks of medical or other files. Such obstacles must be met with a clear message that the primary mandate of the NPM, namely the **prevention of torture and other forms of ill-treatment, must not be subordinated to data protection rules** with the effect to seriously frustrate the effectiveness of the preventive work. ! It goes without saying that in turn, the NPM has the responsibility to protect the data it gathered, including by encrypting their IT systems and other measures.

3.2. Registers and journals

While it is true that electronic databases and registers more and more replace the old-fashioned ledgers and hand-written journals, a number of hardcopy registers can still be found in many detention facilities. NPMs should encourage prisons to keep hardcopy registers, as they offer valuable insights and a clear overview for visiting delegations. Alternatively, digital records should be printable in a comprehensive format.

Most NPMs will know which journals and registers they can expect to find in a detention facility. However, it is worth asking the management at the beginning of the visit not only for those registers they are obliged to maintain, but also for any other existing hardcopy journal, as individual detention facilities might differ in practice and keep additional records. Once the monitors have an overview of which registers are kept in a specific detention facility, they can make note of it for their next visit, and quickly discard of those registers that are not of interest for them.

The informative value of registers cannot be overemphasised. On the one hand, the manner in which they are filled in (complete/incomplete; slovenly/neatly etc.) offers valuable clues to the **diligence of work performance** of the staff responsible for maintaining these registers and their preparedness of following up certain incidents. Moreover, registers provide **statistical information** (e.g. *number of days spent in solitary confinement as a disciplinary punishment, number of violent incidents etc.*) that monitors should collect and compare, with a view to formulating recommendations based on this analysis. Finally, registers are a **primary means for identifying detainees** a monitoring delegation should speak to. From the consultation of the most pertinent registers – e.g. *the disciplinary punishment register, the register on special incidents, the register on the use of force/means of restraint, the medical register on traumatic lesions obtained in the detention facility, the complaints logbook, the register on disciplinary punishments of staff members etc.*⁷ – the monitoring team can deduce the identities of

7. The exact titles of the mentioned registers may vary in practice; however, their content should more or less coincide with what is listed.

detainees who are at higher risk of ill-treatment by staff or fellow detainees, or who have other grievances or information that might be relevant for the visiting delegation.

Examples of relevant registers

- ▶ Disciplinary punishment register
- ▶ Register on special incidents
- ▶ Register on the use of force/means of restraint
- ▶ Medical register on traumatic lesions obtained in detention or observed at arrival
- ▶ Complaints logbook
- ▶ Register of disciplinary punishment of staff

If no journals or registers containing the mentioned issues exist (*e.g. disciplinary punishments, special incidents, use of force, traumatic lesions etc.*), the monitoring body will have to try to find this information in a structured form in the database. It is certainly not considered good practice for monitors to have to review a large number or all individual files of detainees in order to gain a systematic overview of the occurrence of certain incidents or complaints. In such cases, the NPM could recommend to the authorities that the data is kept in a structured format in the future.

3.3. Individual files

Detainees' individual files usually contain a massive amount of information. The question remains, however, if all this information is really relevant for the fulfilment of the tasks of a monitoring mechanism. Indeed, monitors can spend hours and hours reading individual files, which at times contain stories of bizarre or particularly cruel crimes, tales of tragic lives, and other information that makes an interesting read. By reading files, a monitoring team can appear very busy, while staying in the comfort zone of an office or meeting room in the administrative part of a detention facility; at the same time, the output of such an exercise is oftentimes extremely meagre, and at best the focus remains on individual shortcomings detected while reading files, rather than gaining a more systemic perspective.

What is more, and as already indicated above, knowing "too much" about certain detainees can blur the monitors' objectivity when speaking to individual detainees.

Nevertheless, some of the information contained in individual files should certainly also not be completely disregarded. In particular, they can be of **great value as a means of cross-examining information** that has been gained through other sources. As a very general guideline, examining individual files stands at the end of a process of information gathering. *For example, the monitoring delegation could start identifying persons who have recently undergone solitary confinement as a disciplinary punishment by going through the respective register or list obtained from the prison database.* In a next step, they should speak to a number of thus identified persons in order to find out whether they have experienced any kind of problem regarding the procedural aspects of the disciplinary process, or relating to the actual implementation of the disciplinary punishment. In a final step, any allegations of procedural flows or violations of rights of detainees should be verified by examining the individual files of the detainee concerned.



Naturally, not all allegations can thus be verified; for instance, if a detainee claims not to have been served the form pertaining to their punishment, and at the same time it is common practice of detainees to refuse signing the respective form, it will be close to impossible for the monitors to determine with certainty whether the detainee was served the form and refused to sign it, or if the form was never handed over by staff. In these cases, the members of the monitoring delegation will have to decide whether the allegations appeared credible, and whether other safeguards are in place to mitigate the risk of violations of rights (*e.g. if a higher-ranking staff member has signed the form, testifying that the detainee in question has refused to sign*).

It is also possible, albeit very time consuming, to retrieve systematic information from individual files. This method should only be applied whenever there is no general register on certain pieces of information that the NPM considers relevant. However, in this case either the entirety of all individual files, or a large proportion must be checked in order to reach any meaningful findings. Random checks of a small number

of files might, as mentioned, reveal individual shortcomings, but they are usually hardly relevant in a more comprehensive assessment of the system.

3.4. Medical files

As noted above at 3.1-3.3, any information on detainees contained in files and registers is highly sensitive, and this is even more the case for medical information. In principle, it is a positive sign if prison health care staff are reticent to share medical information with an NPM due to medical confidentiality and should not *per se* be seen as a lack of cooperation. However, in order to fulfil the core mandate of an NPM, it is unavoidable to gain access also to medical files of detainees, as these can, *e.g. contain records of injuries observed at admission or during the period of detention*. Further, a lack of adequate health care for detainees is often considered to constitute inhuman or degrading treatment, and NPMs need access to information about medical diagnoses of and the treatment afforded to detainees.

Ideally, the NPM has by law an omnibus authorisation to access all information held by the detention facility on detainees, including medical data. In other case, an understanding needs to be sought with the authorities that grant the NPM access to medical files. It is at times easier to gain access if a member of the visiting delegation has a medical qualification. The inclusion of a doctor or nurse in an NPM visiting delegation also has the advantage that these persons are more likely to make sense of detailed medical notes on a given detainee.

Having said that, there is a range of medical information that also non-medical members of a delegation can verify. In particular, the diligence with which admission examinations are conducted and whether any injuries observed were documented in line with the [Istanbul Protocol](#)⁸ should be assessed. The same is true for injuries detainees might have sustained during detention and which could be indicative of inter-detainee violence or excessive use of force by staff. All this information should in principle be accessible in a structured overview manner, *e.g. in the format of a register on traumatic lesions*.

Other general information held by prison healthcare services that should be of interest to an NPM include vaccination and screening programmes, substance use disorder treatment programmes including access to harm reduction measures, suicide prevention measures, etc.

The perusal of individual medical files largely follows the logic outlined above regarding detainees' individual files. If there are indications or complaints that certain detainees who might be suffering from a somatic or mental health disorder or a disability are not afforded the medical treatment their condition requires, a more in-depth analysis of their individual medical files might become necessary. Likewise, indications of injuries found in more general registers should be cross-checked against individual medical files. Again, all this is best undertaken by a member of the delegation with a medical background.

Healthcare services in detention facilities often retain registers or other information on deaths in the facility, which should be examined by the NPM with a view to extrapolating information on problematic issues (*e.g. violent deaths as an indicator of insufficiently managed inter-detainee violence; deaths from infectious diseases as an indicator of shortcomings in the detection and treatment of such diseases or the general sanitary conditions*). Furthermore, deaths in detention should always be followed up by an official procedure to determine the cause of death and an internal procedure establishing possible responsibility and lessons learned. The NPM should verify whether all these steps have been taken in the death cases registered.

3.5. Interviews with detainees

3.5.1. General observations

It is difficult to quantify the **importance of interviews** with detainees, but as a rule of thumb, visiting delegations should spend more than half of their overall visit time in a detention facility speaking with detainees, who are the primary source of information on most aspects of prison life. This does not mean that everything detainees tell the monitoring delegation has to be accepted at face value; with careful cross-examination of the information gathered through interviews the monitors will, however, be able to gain a comprehensive and objective picture of the prison routine as well as the most pressing problems prevailing in any facility.

8. Istanbul Protocol, Revised Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2022.

Interviewing detainees in a manner that is both respectful and efficient is an art that requires great skills. All members of the NPM should have undergone initial professional **training in interviewing techniques**, and from time-to-time refresher courses for all members should be held. More experienced members should take new members along to sit in on interviews, so they can learn from them best practices and become confident when speaking with detainees themselves.

There are a number of issues to consider when it comes to interviewing detainees, from the choice of interview partners and the place of conducting an interview, to the chronology of an interview and the information that the interviewer seeks. In the following, short chapters are dedicated to providing guidance on these issues.

3.5.2. How to select interview partners

The selection of interview partners among detainees depends to a great extent on the information the NPM would like to gather. In any case, it is preferable before choosing the interview partners to have a **strategic idea about the expected outcome** of the visit, which should contain a set goal regarding the information sought. When visiting a detention facility for the first time, it is worth speaking to a larger range of detainees belonging to different groups; however, during following visits, the NPM could possibly have a more thematic approach, or focus on specific issues they found problematic during the first visit.

*For example, a **thematic visit** could focus on the challenges of foreign detainees in the prison system.* In this case, the monitors should certainly speak with all or a great number of the foreign detainees present in diverse detention facilities – this might necessitate bringing one or more interpreters ([see above, Chapter 2, “How to prepare a visit”](#)). The information on nationality should be available either on the list of detainees provided to the visiting delegation, or the general database.

There are other examples of **detainees who exhibit certain specificities** and who may face specific challenges in detention, which are worth studying. These could include, but are not limited to, pre-trial detainees, convicted persons serving life imprisonment or long-term sentences, first-time offenders, persons in high security settings, young adults, elderly detainees, persons suffering from a disability or an illness, including mental illnesses and/or substance use disorders, persons prone to suicide or self-harm, etc.

Moreover, monitors should, in the course of each visit, strive to identify **vulnerable persons or groups of detainees**, who are at a greater risk of becoming victims of ill-treatment, such as particularly “troublesome” detainees (they can be identified by examining certain registers, such as the disciplinary punishment register); as well as detainees who are more vulnerable to inter-detainee violence, such as juveniles or young adults, LGBTI+ persons, former police officers or sex offenders, and more generally persons on protection from other detainees.

If monitors discover credible allegations of ill-treatment or other forms of violence, they should not only follow up on the specific case by examining other available evidence (*e.g. medical files, CCTV etc.*), but also try to speak to detainees who share a similar profile to the person making the allegations. They could also try to ask the affected detainee whether they know of others who have undergone similar treatment, and then speak to those **persons who were pointed out by the detainee**. A variation of this scenario can occur when a detainee indicates that they have not been personally ill-treated, but that others might have been subjected to violence. In such cases, the delegation should in a subtle manner identify those persons and engage with them, in principle without disclosing that they have received prior information from others.

During visits, the delegation members might at times be **approached by detainees** who would like to speak with them; or staff members point out detainees who have expressed the wish to talk to the NPM members. In such cases, a balance has to be struck: these persons might have genuine concerns that are of interest to the monitors, and detainees should not get the feeling that the NPM is callous. At the same time, these interviews might take a lot of precious time and be of little relevance to the mandate of the NPM or the focus of the visit. They might distract the monitors (sometimes even wantonly) from the real problematic issues in a detention facility. Members of the delegation who are thus approached by a detainee should decide whether to interrupt their planned visit procedure, or rather inform the detainee that they will return for an interview once they have finished talking to the target group of the visit (in the example above, the foreign detainee population). However, if they have promised to return for a follow-up conversation at a later stage, the monitors must honour that commitment, or else risk that the detainees in question get frustrated and lose trust and respect for the NPM.

To summarise, in larger facilities where it is not possible to speak with all or a considerable proportion of detainees during a visit, it is preferable to make a strategic choice of interview partners rather than to select them at random.

The strategy could be to gather information on a specific topic (*e.g. the correctness of disciplinary punishment procedures – interviews with all persons who underwent such punishment in a specified period of time*), or focusing on the challenges faced by a specific group, such as life-sentenced detainees. A number of particularly vulnerable detainees should always be included on the list of persons to be interviewed.

! **Under no circumstances should the prison staff be made to choose interview partners for the monitoring delegation.**

The information sought through interviews also determines whether detainees should be talked to individually, or whether a group interview can be conducted. Generally speaking, **individual interviews** are to be preferred, as the privacy of the setting will help create greater confidence between the interview partners, and detainees will be enabled to speak about issues they would rather not like to discuss in front of their fellow detainees. Moreover, in group interviews, mostly one or two more outspoken detainees take the floor, and others might feel intimidated and not in a position to tell their version of the problem. The interviewers may thus get the feeling that they were told about a certain issue by a larger number of detainees, while in reality the majority of the persons present during the interview had different experiences but simply did not dare to contradict the narrative of the informal leader. In particular, discussions about possible ill-treatment or inter-detainee violence should be held in a private setting in individual interviews.

Having said that, **group interviews** can also have some benefits, and a visiting delegation can save resources and efficiently gather information from a larger number of detainees at the same time. Issues to discuss during group interviews might entail details on the regime of detainees (*e.g. outdoor exercise, work, education etc.*) or access to the outside world (phone calls, visits etc.). The interviewer should, however, ensure that all detainees present are given the floor, and not only listen to the strongest, most outspoken amongst them. Furthermore, group interviews can give valuable clues to internal hierarchies and domination within certain groups (*e.g. within one cell or dormitory*). The interviewer can first conduct an interview with the whole group, determine whether any of the detainees present appear to be repressed by others, and then ask these persons for a private interview in order to determine whether they suffer from inter-detainee violence or other problems.

Lastly, some detainees might feel safer in the **presence of a specific other detainee**, and the interviewer should in principle accommodate the wish of the detainee to be accompanied by somebody else. It should be made clear, though, that the accompanying person must not interrupt the interview and speak on behalf of the interviewee. Another constellation sometimes occurs during interviews with foreign detainees, if the interview partners do not speak a common language, and the visiting delegation has not brought an interpreter for the language the detainee in question speaks. Offers from other detainees to act as interpreters can be taken up, as long as the interviewer has the impression that this is done in good faith and the impromptu interpreter does not start controlling the content of the interview.

3.5.3. Where to conduct interviews

The choice of the place where an interview is conducted can have a major influence on the interview itself. Since the primary objective of the monitors should be to gain detainees' confidence and make them open up on partly difficult subjects, the **interviewee should be consulted when choosing a place for an interview** in order to establish whether they feel comfortable and safe to speak in the chosen place.

The easiest manner of conducting interviews is to go directly to a detainee's single cell; in case more than one detainee is held in the cell, the matter already becomes more complex (see below). At the cell door, the members of the monitoring delegation should ask the detainee(s) whether they are permitted to come into the cell to talk to them. It is not good practice to let prison guards carry out this first contact with detainees on their behalf, and the monitoring delegation should make sure that the guards who are responsible for locking and unlocking the cells are clear about their role before opening a cell door.

! **It is of utmost importance that the members of the monitoring delegation introduce themselves and their mandate at the point of entrance into a cell.** Prison staff should only unlock the door, make sure with a quick glance into the cell that there is no apparent security risk and everybody is decent, and then let the monitors enter and speak to the detainees. During interviews, whether in groups or individually, **staff members should never be present**. If a monitor feels unsafe to speak to a specific detainee, other security measures can be considered (see below).

As mentioned, an interview with one person in their **single cell** is in many respects the most efficient manner to gather information. However, in many cases, detainees will be held in **multi-occupancy cells**, which compromises the confidentiality of an interview. There are different ways of dealing with such a situation:

The monitor could either decide to hold a group interview, after introducing themselves to all the occupants of one cell (see above, [Chapter 3.5.2. "How to select interview partners"](#), on the advantages and disadvantages of group interviews). However, if there is one specific person the monitors would like to interview, arrangements can be made for the person to be brought to an office or other appropriate location, where the interview can be conducted privately. **Once the introduction has been made and the detainee has given their consent, it should be the monitors, not the guards, who escort the detainee from their cell to the designated location for the interview.** !

Conversely, the monitors could ask staff to keep the other detainees outside their cell, and remain with one person in the cell. This latter option, however, is often rather awkward, as staff have to guard a number of detainees outside their cell for sometimes prolonged periods. Additionally, those who are temporarily evicted might feel offended for having to leave their personal space.

In case the monitors choose to speak to single detainees in private **outside their cells**, various options exist, such as staff offices (without staff presence, of course), medical offices, lawyers' visit rooms, or any other communal space (*e.g. courtyard, workshop etc.*) that is sufficiently private at the time of the interview. In any case, the interview partner should be asked whether they feel confident to speak to the monitors in the chosen location. In particular, the monitors should be aware that usually most of the communal areas are covered by CCTV cameras; if possible, it should be avoided to conduct an interview right in front of such a camera.

Finally, as a compromise solution that is usually efficient and private enough, the monitors can explain to all detainees present within a cell that they wish to speak with persons individually, and then find a place **within the cell** where they have a little privacy, such as a corner or the far end of a cell. This will probably entail sitting together with the interview partner in very cramped conditions, such as on the lower part of a bunk bed, but in many cases this solution is preferred by detainees, as they can remain in a familiar environment without having to exit their cell or evict the others from the cell and thereby draw attention to the fact that they speak with the monitors. If the monitors feel that other detainees are listening in during an interview, or even interrupt the interview by providing their own views, they can politely ask these other detainees to move to another part of the cell and concern themselves with something else.

In general, **the topic the monitoring delegation wishes to discuss with detainees should also determine the place for interviews.** If the focus is on general issues, such as food, conditions, regime, access to the outside world, group interviews or individual interviews in multi-occupancy cells are a possibility. However, the more sensitive the topic, the more attention should be paid to the choice of place for an interview. *For example, if the monitoring delegation wishes to interview detainees who are particularly prone to become victims of inter-detainee violence, or even has indications that one or more detainees have indeed been victim of such violence, maximum privacy has to be ensured during the interview and talks in multi-occupancy cells where others are potentially listening in, are not an option.*

Places where the conversation is often interrupted (*e.g. offices where staff have to enter regularly*) should be avoided. In general, **interruptions** by whomever (including other members of the visiting delegation) are not conducive to a trustful atmosphere between interview partners.

Finally, **prison routine** should also as far as possible be taken into account when choosing a place for an interview. *For example, monitors should avoid using the medical offices or outdoor exercise yard for prolonged individual interviews if this means that a larger number of detainees are thus prevented from being seen by healthcare staff or exercising outdoors.*

3.5.4. Security related considerations

Closely connected with the question of deciding on the right place for an interview is the issue of personal safety of the interviewer(s). Experienced monitors will in most cases not feel uncomfortable entering prison cells or talking with detainees in private. At this point, it is important to briefly address a few security considerations.

First, the members of a visiting delegation have to decide whether they want to work individually, or in groups of two or more. Particularly when it comes to interviewing detainees, there are a number of advantages in **working in pairs of two persons**: one of these advantages is that being in the company of another monitor can generally be considered as more secure; another benefit is that one person can fully concentrate on the interview, while the other one takes notes and describes the material conditions in the cell.

Despite this and other advantages, monitoring delegations at times decide that they split up and individual members of the group go into cells for interviews, in order to save precious time. In this case, too, a few **precautionary measures** can be taken to enhance security of the delegation members. For one, the monitor

should strive to stay closer to the door than the detainee(s). In case the member of the visiting delegation feels slightly insecure, the detainee can be asked to sit down on a bed or chair, while the monitor remains standing. And while guards and other prison staff should never be able to listen in to an interview, they can be requested to remain outside the door in case of need.

Monitoring delegations should not take lightly advice by staff that a specific detainee is “**dangerous**”. On the other hand, it should be clear that it is the delegation’s responsibility to look after their own safety, and they should not all too easily give up their plans to talk to a specific person, just because they were labelled “**dangerous**” – after all, the “**dangerous**” and “**difficult**” detainees are those who are often most at risk of ill-treatment, and staff could have ulterior motives to scare a delegation away from talking with these detainees. Moreover, detainees mostly sense that visiting delegations want to talk to them in order to help improve their situation and will therefore treat them less aggressively than staff. In those exceptional situations when the delegation wishes to talk to a person who is considered to pose a very high risk, additional security measures could be considered, such as asking staff to visually supervise the interview (*e.g. through the glass or via CCTV*); still, staff should not be put in a position to overhear the content of the interview.

! **Whatever the circumstances, interviews through bars, cell door hatches, or with a handcuffed or otherwise restrained interview partner are not considered good practice and should be absolutely avoided.**

3.5.5. How to conduct interviews

Depending on the detainee in question, certain issues have to be kept in mind when conducting an interview. As mentioned in the [chapter on women in detention](#) below, **interviews with women** should preferably be conducted by a woman, or at least in the presence of a female monitor. Situations where one or more male monitors are speaking to a woman on her own should be avoided. Moreover, **interviewing children and young persons** requires special skills, and the ability to rapidly assess the young detainee’s level of development. Monitors should be aware of the fact that children can react to an unknown adult in a shy and withdrawn manner, overly confident, or by trying hard to appear compliant with what they think the monitor wants to hear from them.

Further, persons with **mental health disorders**, including such who suffer from post-traumatic stress after violent events, are overrepresented in detention facilities, and monitors should not expect to get a straight, sensible answer to every question they ask. In particular, many detainees will have a distorted sense of time, and interviewers should not interpret too much into confused or obviously false time specifications. *For example, if it is apparent from the list of detainees that an interview partner has been in the detention facility for a bit more than one year, but they claim that they have been there for many years, this does not necessarily mean that the detainee is wilfully lying.*

! **As was mentioned on different occasions before, good monitors/interviewers have to be open-minded, patient, not prejudiced vis-à-vis detainees, not afraid to talk to them, and able to feel a certain amount of empathy for their situation; they should be genuinely interested in what the detainees have to tell them. Interviewers should be respectful and avoid an interrogative style or judgmental comments. They should not show disbelief or scepticism but take any remark a detainee makes seriously.** At a later point, when all other facts have been checked, a monitor can decide whether they lend credence to what a detainee has told them.

An interview should always be commenced with a (short) **introduction** of the person(s) conducting the interview, the mandate of the NPM, and the purpose of the visit. It is not essential to go into details about the mandate, but sometimes detainees have already at this point questions about the mandate, the purpose of the visit, or the reason why they were chosen for the interview, which should be duly answered in order to let the detainee decide whether they wish to talk to the delegation. While it is not necessary to bend somebody’s arm in order to get an interview, the aim is to speak to persons, and monitors should not give up all too easily if a detainee tells them that they are not interested in talking to them. In particular in cases when the delegation has identified one or more very specific interview partners (*e.g. persons who have reportedly been ill-treated or victims of inter-detainee violence*), it might be necessary to be a little more persuasive in order to secure an interview. It might help to inform detainees that the genuine aim of the NPM is to improve the overall situation in detention facilities in the country, and that their assistance is needed in order to achieve this aim.

After the detainee has given consent to being interviewed and the appropriate place for the interview has been found, the interview should be conducted in a **systematic** manner. However, sticking too closely to a pre-established checklist for the interview might create an artificial atmosphere, and important information might be lost. A chronology of events should be established (*“When did you arrive at this detention facility?*

Where have you been before? How long have you been under this regime? When have you been put into solitary confinement?” etc.), as this makes it easier to follow the interview partner’s train of thought and establish the facts.

The interviewer should **avoid leading questions** that suggest a particular answer, or **closed questions** (that can be answered by a mere yes or no); rather, the detainee should be given the opportunity to speak about problems encountered during their time in the detention facility in an open manner. Questions such as *“Tell me about the atmosphere between the guards and detainees”, “What is it like to share a cell with the other detainees”, “What is your daily routine”, “How would you describe the food”, etc.* could be used to obtain personal accounts about the treatment, inter-detainee violence, regime, food and so on. Depending on these accounts, more concrete follow-up questions could be asked, *e.g. if the detainee replies that most of the guards are alright, but that there are a few “black sheep” amongst them – an obvious follow-up question would be, “And what do these ‘black sheep’ do?”.*

It is important for an interviewer to **stay in control of the interview**, ask precise questions, and not let the detainee stray too far from the subject. *If, for example, the detainee wishes to talk or complain about a matter that is outside the competence of the NPM (e.g. the length of his/her sentence etc.), the monitors should not be afraid to say so.* In these situations, it is often helpful to at least point out the competent body to which the detainee can direct their complaint, before reverting to the subject the monitor would like to hear about.

The interviewer should also avoid asking personal questions that might cause the interview partner **mental grief, unnecessary stress or even re-traumatisation**, if these questions have no relevance for the task of assessing the situation prevailing in the detention facility. In most cases, the crime the person in question has been accused or convicted of plays little role in the evaluation of this detainee’s situation within detention; and dwelling on it during the conversation might cause the interview partner unnecessary stress or distract from the actually important questions during a monitoring visit.

When **allegations of ill-treatment or inter-detainee violence** emerge during an interview, the monitor has to make sure they receive all the necessary details in order to follow up. First, it has to be established without a doubt that the treatment that is alleged happened to the interview partner personally and is not something they saw or heard about. At times, a detainee would claim that “we are beaten up all the time”, or along similar lines. The interviewer has to establish whether this has actually happened to the interview partner, or whether they have personally witnessed such treatment on others (in this case, the identity of those other potential victims has to be asked for), or if this is a general rumour the interview partner is simply repeating.

Necessary information in cases of alleged ill-treatment/violence:

→ Identification of victim(s)	In case the person who is being interviewed reports about ill-treatment (or, <i>mutatis mutandis</i> , inter-detainee violence) they were personally subjected to, the interviewer should try to establish the details: When has this incident taken place? If the interview partner reports that they have been ill-treated more than once, the approximate (or, if possible, exact) time of every incident should be established. Who ill-treated? If possible, the alleged victim should provide names of perpetrators, or describe them as well as they can. Where did the ill-treatment take place? It might be that the person has been ill-treated in another detention facility, or when with the police. Details on the place where the alleged ill-treatment has taken place can be important for tracing other evidence, such as CCTV footage or witness accounts. How was the person ill-treated? Which instruments were used for the ill-treatment? Maybe the detainee alleges that they were slapped, punched and/or kicked, but in other cases batons, pepper spray, electric devices etc. could have been allegedly used. In the latter case, the detainee should be asked to describe the instruments in detail. Have there been any witnesses to the ill-treatment, or is there any other corroborative evidence the detainee can point to? Do they still bear any physical marks from the violence? Have they been seen by a doctor or medic after the alleged ill-treatment? Have they made a complaint to anybody about the violence? If not, why have they refrained from making a complaint?
→ Identification of perpetrator(s)	
→ Time of ill-treatment	
→ Place of ill-treatment	
→ Any instruments used	
→ Witnesses or other evidence	
→ Physical marks	
→ Medical examination	
→ Complaint	

There is no set maximum or minimum **time limit** for an interview, and it can happen that an interview ends after only a few minutes, because the detainee does not want to talk to the delegation, or due to language

barriers, or for other reasons. Further, the length of an interview differs in accordance with the information sought by the interviewer: if the objective of a visit is a very focused one, a few thematic questions can be posed within a shorter time than if the whole range of issues pertaining to prison life has to be discussed.

As a rule of thumb, a general interview lasts some twenty to thirty minutes; however, if in the course of the interview concrete allegations of ill-treatment emerge, more detailed questioning is necessary in order to gather all the relevant information, and the interview could last much longer. Interruptions of an interview (*e.g. to check the accuracy of a statement*) should be avoided; however, it is possible that the monitors have to go back to a detainee in order to clarify certain information after they have checked the files, or to give the detainee feedback on specific requests.

Some professional monitors feel that **audio-taping interviews** or using a laptop helps them in better catching the details of what was said. However, there are more disadvantages to such an approach than advantages. Detainees could easily form the impression that they are in a situation resembling a police interrogation, and might feel intimidated; recording their statements is not likely to promote a confidential and trusting atmosphere and detainees will probably be less open in sharing information with the interviewer. Therefore, it is more advisable to simply take a **writing pad and pen** to the interview and note down the most pertinent parts of the conversation.

Once the interviewer has exhausted their list of questions, the interviewed detainee should be given an opportunity to add anything they deem relevant. *For example, the interviewer could acknowledge that they have asked many specific questions and invite the detainee to add anything else that causes them grief or problems in prison.*

The professional **wrapping up** of an interview and decision on the **next steps** become particularly important in case the detainee has made allegations of ill-treatment by staff, or violence from side of other detainees. It should be clearly established whether the detainee wishes to lodge a formal complaint about the incident(s), and it should be clarified if the NPM is officially entitled to receive such a complaint and forward it to the competent authorities, or if the detainee will have to take their own steps to contact these authorities. It should also be clarified whether the NPM has the option to treat such allegations confidentially, or whether they will have to report to certain other authorities. Nevertheless, the alleged victim should understand that all steps are being taken to prevent negative consequences or reprisals from staff or other detainees, and that the monitors will handle the information received with great caution.

3.5.6. Follow-up to interviews

Whether a detainee experienced alleged ill-treatment or whether they have complained about not having received a letter, monitors should always stick to their word if they promise to follow up an issue. As mentioned at other occasions, the follow-up to allegations of ill-treatment or inter-detainee violence has to be particularly diligent, and preferably the NPM should have Standard Operating Procedures or guidelines at their disposal outlining the necessary steps that have to be taken if a person reports of violence against them. As a minimum, these guidelines should detail necessary actions, such as ordering a medical or psychological examination of the detainee, further investigative steps the monitors have to undertake to corroborate the allegations (*e.g. securing CCTV footage, taking photocopies of medical reports, talking to witnesses etc.*), the reporting obligations to the management, other bodies within the responsible Ministry, and/or the prosecutor's office, and necessary victim protection measures, such as a transfer of the alleged victim to another cell or unit or even another detention facility, and steps to suspend or transfer alleged perpetrators.

3.6. Talks with the prison management

At the beginning of every visit, **initial talks** with the prison director and/or their representatives should be held, in order to introduce the delegation, to outline the planned procedure of the visit, to receive initial information, and to clarify certain practicalities. The length of these initial talks depends on whether the NPM is on a first-time visit, or if they have already been to the detention facility and know the general layout and routine; if a long time has elapsed since the last visit; if the visit is of a general nature, or if the monitors are on a more focused, thematic or follow-up visit.

It is generally a sign of respect if all members of a delegation are present and introduce themselves during the first meeting with the management. Nevertheless, it is not necessary that the entire delegation sit through a prolonged initial conversation if certain members have, in accordance with their pre-established visit plan, specific tasks to do. The head of delegation can in these cases excuse the members who will proceed to their work, while staying with the management for further talks.

In the initial meeting, some **general information on the detention facility** should be sought; again, the detail of this information is dependent on whether the NPM has been to the facility before and already has knowledge about the prison population, its division into certain categories, the daily routine, and the layout of the detention facility. Furthermore, the NPM could also have established certain information, such as the number of detainees, from the database before the visit.

At the outset of the visit, the management should be requested to provide up-to-date lists of detainees (see above, [Chapter 3.1](#)), the necessary journals and registers (see above, [Chapter 3.2](#)), staffing lists, internal regulations, and any other information the delegation will need for its work.

The delegation also has the opportunity during the initial talks to ask for any **extraordinary incidents** since their last visit or within a specific period of time, such as riots, deaths including suicides, mass hunger strikes or major cases of self-harm, escapes, allegations of ill-treatment, more serious cases of inter-detainee violence or any other incident that is deemed out of the ordinary. Furthermore, the management can be asked if they have encountered any problems or difficulties in running the detention facility.

Last but not least, the delegation should clarify the **practicalities** of the planned visit with the management in the initial talks. For instance, they might request an office or meeting room where they can work on registers and files, or the assistance of a staff member when in need of specific documents or information. One or more members of staff should also be appointed to support the delegation so they can freely move around the premises and enter cells if they wish to speak to detainees. In some countries, NPM members will have keys or other means of entry at their disposal to facilitate their work.

It might be necessary to speak with the director or other members of the management at a later point **in the course of the visit**. In order to avoid that they have to constantly interrupt their work or permanently be on call for single members of the delegation, the head of delegation should agree with the director or their representatives on certain times (*e.g. every evening before finishing a day's work*) during which the issues at stake can be discussed in a collective manner.

At the **end of each visit**, a debriefing of the management should take place, in the course of which the delegation can acquaint the director and their representatives with their initial findings and any recommendation or request that can be best dealt with locally (see below, [Chapter 4 "How to write a visit report"](#)).

3.7. Interviews with staff

All too often, monitors overlook the **importance of staff** for the smooth and human rights compliant operation of a detention facility. Monitoring delegations tend to focus on talks with the higher management of a facility, as well as on interviews with detainees, while ordinary staff members, both security and civilian and health care staff, are at best seen as facilitators for the visit. However, staff members can hold a plenitude of important information, and their job satisfaction is a major contributor to the overall atmosphere in a detention facility. Typical topics that can and should be discussed with staff relate to their recruitment procedures, training and possible counselling they receive for being mentally and physically prepared to meet the challenges of their difficult job, their attitudes vis-à-vis detainees, and problems they are facing at work.

Monitoring bodies should always obtain basic information about the **staffing complement** of a detention facility, including number of posts, number of vacancies, statistics on staff absenteeism, sick-leave and overtime, proportion of male and female staff, inclusion of civilian staff, such as educators, social workers and psychologists, number and qualifications of health care staff, typical shifts during weekdays, weekends, nighttime, etc. It would go too far to propose an exact ratio of guards or civilian staff per number of detainees at this point, as this number necessarily varies according to the profile of the detainees and the security level of the detention facility, amongst other criteria. However, monitors should keep in mind that staffing levels have a direct impact on all facets of prison life, such as the regime, medical care, security etc. Moreover, lengthy shifts might negatively affect the ability of staff to deal with detainees in a professional manner.

Interviews with staff members should follow the same **principles** as interviews with detainees, *i.e. the interviewer should find an appropriate place for the interview, which should be conducted in private; consent for the interview should be sought, and the interviewer should be open-minded and respectful when speaking to staff*. They should be genuinely interested in finding out about difficulties the staff are facing in their daily work. The choice of interview partners largely depends on what the monitors wish to find out. Staff representatives could be good resource persons, but also ordinary members of the security or civilian and medical personnel might hold valuable information.

Interviews with staff should be conducted with a view to receiving direct information on issues that concern them personally, rather than second-hand information on detainees. It is not good practice to discuss with staff the situation of detainees while these detainees are present.

3.8. Questionnaires

A few precepts regarding the informative value of questionnaires have to be kept in mind when using them in order to receive general information from detainees. Surely, questionnaires appear to have the **advantage** of reaching a large proportion or the entire prison population of a given facility, or even the whole prison system in the country. Anybody who feels aggrieved could in principle return the questionnaire, and the anonymity of the procedure should make it easier for detainees to say whatever they think, without fear of repression.

However, the use of questionnaires is not so straight forward, and NPMs **should not solely rely** on this mode of information gathering. To begin with, filling in questionnaires presupposes that all detainees can read and write, and are able to understand the language. Moreover, most questionnaires either contain closed questions (that can be answered only with “yes”, “no” or something in between, such as “maybe” or “don’t know”), or questions that can be answered with qualifications from “very good” to “terrible”. Rarely, persons make use of lines provided for giving additional comments in writing. Hence, a whole lot of information is already lost in the simplicity of the pre-defined answers.

While there is no guarantee that a detainee does not lie during an interview, an experienced interviewer will at least be in a position to assess the credibility of statements made in the course of an interview. This option does not exist when evaluating the information gained through questionnaires. Generally, the anonymity of questionnaires makes it almost impossible to follow up certain claims, whether by trying to verify the information gathered, or by setting in motion certain protective or restorative measures.

Finally, the oftentimes low return rate of questionnaires indicates that detainees are not too fond of this method of providing information, that they do not see the added value for themselves, or that they do not trust the anonymity of questionnaires or feel unsafe to fill them in.

To sum up, questionnaires for detainees might have **some value** for the evaluation of very general questions pertaining to prison life. They should be limited in scope and concentrate on **one or two thematic issues**, such as access to the telephone or quality of food rather than on the whole range of problems that can occur within a detention facility. If they are too long and detailed, there is a risk that detainees will feel put off.

Certain matters cannot be reasonably evaluated by using questionnaires; these include in particular inter-detainee violence and ill-treatment by staff. NPM members will have to speak individually to detainees, gain their trust, and hope to find out about violence. As mentioned, it is not only important to have this face-to-face encounter with detainees in order to assess their credibility and get important details about the who/where/when etc., but also for setting in motion vital follow-up measures after an allegation of ill-treatment or inter-detainee violence has emerged during an interview.

Finally, in case NPMs wish to make use of questionnaires to gather detainees’ opinion on a specific subject, they should also take responsibility for **creating adequate conditions** to enable a large proportion of detainees to fill in the questionnaire. Simple measures such as ensuring that all detainees have writing utensils at their disposal, might be necessary; conditions for the anonymous, private filling in of the questionnaire should be given; and members of the NPM should hand out the questionnaire personally to detainees, informing them that their opinion is of importance to the mechanism. Additionally, it is crucial that the questionnaire is provided in a language the detainees understand.

3.9. Personal observations of material conditions

The examination of material living conditions in a detention facility is one of the core tasks of a preventive monitoring body, and its members should be well prepared for making this assessment. This means that they might need to take certain **technical equipment** to the cells, in order to measure their size (*e.g. an electronic measuring device*), or a thermometer in order to take the temperature in particularly cold or hot times of the year. Moreover, taking a camera into the detention facility in order to capture certain aspects of the material conditions, *e.g. water leaks etc.*, could prove beneficial for illustrating the delegation’s findings at a later point with the authorities, as well as for helping the delegation to remember certain issues when drafting their report. This possibility, however, depends on the national regulations and not all NPMs have the right to bring a camera and take photos in all facilities. When taking photos, it has to be ensured that either no person

appears on the photo, or that they have given their consent to being photographed; this rule applies to both detainees and staff.

Often, it is however sufficient to take oneself as a measuring rod, and to ask oneself if one would be able to live under the given conditions. Simple tests such as trying to read with the light available without straining one's eyes can offer valuable clues to the adequacy of the lighting situation in a cell. In the absence of a measuring device, monitors can estimate the available space in a cell by using the length of a bed, which is normally between 1.9 and 2 metres long, as a reference.

Details on how to assess material conditions are provided in [Chapter 5.4](#), below; suffice it to say here that monitors should not be satisfied with seeing just one or two cells in a given detention facility, or only the areas that are shown to them by the staff. During a first visit to a facility, or during a full periodic visit, the delegation could start with a tour of the entire facility, including cells on all floors, special cells such as segregation cells, common areas including courtyards, workshops, visiting facilities, the kitchen, laundry and medical facilities and so on.

3.10. CCTV footage

A more recent source of information for monitors is CCTV footage. The use of CCTV cameras is a somewhat double-edged sword, as **excessive resort** to this form of surveillance within a detention facility can also lead to severe infringements of the right to privacy of detainees (*e.g. if cameras are installed in ordinary cells and dormitories*), feelings of humiliation (*e.g. if cameras cover toilet or shower areas, or if women's living quarters are routinely surveyed by male staff in front of the CCTV monitors*), and a generally more distant relationship and loss of personal contacts between detainees and staff, with the latter gaining a false sense of control of what is happening within the detention facility by means of CCTV surveillance.

On the other hand, CCTV footage can give valuable clues for monitors, in particular in cases when they have to verify allegations of ill-treatment or inter-detainee violence that took place in areas covered by cameras. Monitors should therefore insist on being shown the footage covering the place and time indicated by a detainee during an interview and take measures to secure this evidence for further investigations. A precondition for this is, obviously, that the video material is **stored for a reasonable length of time**.

Having said that, staff (as well as most detainees) usually know about the existence of cameras in certain places, and those who are minded to ill-treating detainees will probably refrain from doing so in plain view of a CCTV camera. Therefore, monitors should also not read too much into the absence of CCTV material showing exact details of abuse. However, sometimes it is sufficient to establish that a detainee who claims that they have been ill-treated in an area that was not covered by CCTV (*e.g. a staff office*) has been led to and from this area.

3.11. Internal regulations

It goes without saying that NPMs should have firm knowledge about the existing laws and bylaws, as well as ministerial orders etc. pertaining to the functioning of the prison system. It might be the case, however, that facility-specific internal regulations, internally used protocols (*e.g. on the use of restraint measures etc.*) or house rules exist, which further specify the law. At times, these internal regulations might also be in contradiction with the existing legal framework. The NPM should request the management and higher-ranking staff to be provided with all written protocols, the house rules and other facility-specific documents (*including for instance the price lists of products that detainees can obtain in the canteen*) with a view to analysing their compatibility with existing laws, and European and international laws and standards.

Furthermore, the monitors should also ascertain in individual interviews with detainees that they are aware of the house rules or other regulations determining their rights and obligations and have been given a copy of or can otherwise gain access to these rules in a language they understand.